

SUMMARY REPORT OF INVESTIGATION
Office of Inspector General Case # 15-0564 (Officer Leticia Velez)
November 22, 2016

This report consists of a summary of the evidence set out in the attached investigative materials and the Office of Inspector General's (OIG's) analysis of that evidence. An index of the investigative materials is attached.

I. INTRODUCTION

An OIG investigation has established that Leticia Velez, a police officer for the Chicago Police Department (CPD) who was at the scene when Officer Jason Van Dyke shot Laquan McDonald on October 20, 2014, failed to follow CPD Rules regarding the operation of CPD's in-car video systems. More specifically, and as detailed below, Velez failed to ensure that her vehicle's in-car video system was capturing audio or video on October 20, 2014, and failed to notify her supervisor that the system was not operating properly. Accordingly, OIG recommends that CPD impose discipline upon Velez commensurate with the seriousness of her misconduct, her discipline history, and department standards.

II. APPLICABLE RULES, REGULATIONS, AND LAW

A. CPD Rules and Regulations

CPD's Rules and Regulations set out the standards of conduct and duties of sworn members. Article V of the CPD Rules and Regulations, entitled CPD Rules of Conduct (the CPD Rules), sets forth specifically prohibited acts. In pertinent part, the CPD Rules include the following prohibitions:

Rule 6 Disobedience of an order or directive, whether written or oral.

Rule 11 Incompetency or inefficiency in the performance of duty.

B. CPD Special Order S03-05 (effective February 23, 2012 through February 24, 2016)

CPD Special Orders are directives that establish protocols and procedures concerning specific CPD functions, operations, programs, or processes. Special Order S03-05, which was in effect at the time of the shooting, outlines the protocols CPD members are to follow regarding in-car video systems.¹ Section VI of the Special Order provides that at the beginning of their tour of duty, Department members assigned to a CPD vehicle equipped with an in-car video system are to:

- (1) visually inspect the in-car video system equipment for damage;

¹ In-car video systems are also referred to as dash cameras or dashcams in this report.

- (2) obtain the remote transmitter/audio recorder and ensure it is securely attached to the member's person; and
- (3) follow the start-up procedures for the in-car video system as trained and ensure the system is working properly.

The Special Order notes that members are to "immediately notify a supervisor if, at any time, the in-car video system is inoperable, damaged, the equipped vehicle becomes inoperable, or the remote transmitter/audio recorder is missing." During their tour, members are to "audibly and visually record events in accordance with this directive." At the conclusion of a tour of duty, members are to "verify the in-car video system is working properly."

III. LETICIA VELEZ EMPLOYMENT HISTORY

Velez has worked as a CPD Police Officer since 2002. Velez is a member of Fraternal Order of Police (FOP) Lodge 7.

IV. SUMMARY OF INVESTIGATION

A. Procedural History of OIG's Investigation

By letter, dated December 8, 2015, Independent Police Review Authority (IPRA) Acting Chief Administrator Sharon Fairley requested that OIG conduct an administrative investigation "to determine whether certain police officers/witnesses made false statements on official reports prepared in connection with [Van Dyke's shooting of McDonald] and/or during the investigation of the incident."² IPRA further requested that OIG investigate "whether any of the involved Chicago Police officers committed any other violation(s) of Chicago Police Department rules, policies or procedures in their involvement with the incident, including, but not limited to, whether any officers' conduct may have interfered with or obstructed the appropriate investigation and handling of this matter."

Then, by letter, dated January 13, 2016, CPD Interim Superintendent John J. Escalante requested that OIG conduct an "administrative investigation into any and all allegations of police officer misconduct" arising out of the October 20, 2014 shooting death of McDonald. The Superintendent's request asked OIG to investigate the following allegations: "whether any officer(s) made false statements on official reports submitted in connection with the shooting of Laquan McDonald on October 20, 2014; whether any officer(s) obstructed or interfered with the investigation of this incident, either individually or in collusion with others; and whether any officer(s) committed any violation of Chicago Police Department rules, policies, or orders in connection with their response and/or handling of this matter." Escalante attached to the letter request a copy of Sergeant Sandra Soria's Initiation Report, which raises allegations of

² On November 24, 2015, the Cook County State's Attorney charged Van Dyke with a single count of first degree murder in the shooting of McDonald. On December 15, 2015, it subsequently charged him with six counts of murder. OIG has not been involved with any criminal investigation related to the shooting and makes no findings regarding Van Dyke's use of force.

misconduct related to the in-car video systems of the vehicles that were present during the McDonald shooting, and identified that Report as a basis for OIG's administrative investigation.

On March 10, 2016, Kevin Kilmer, Financial Secretary for the FOP, filed a grievance with CPD on behalf of all affected members stating that OIG's attempts to conduct CPD officer interviews violated Article 6 of CPD's Collective Bargaining Agreement (CBA) with the FOP.³ On March 16, 2016, FOP on behalf of all impacted CPD officers filed a "Complaint for Injunction in Aid of Arbitration" in the Circuit Court of Cook County, asking the court to enjoin OIG from conducting interviews until the grievance was decided in arbitration.⁴ The court dismissed the complaint and denied the injunction on March 22, 2016.

OIG's administrative investigation of other CPD employees' actions related to CPD's handling of the McDonald investigation is ongoing. During the course of its investigation, OIG has gathered documents from CPD and IPRA, among other sources, and conducted numerous interviews, including interviews of several CPD personnel who were at or responded to the scene of the shooting and civilian witnesses to the shooting. To date in its ongoing investigation, OIG has recommended disciplinary action against multiple CPD personnel.

B. The Events of October 20, 2014

The following sections detail the shooting of McDonald, as well as the relevant events that occurred directly before and after the shooting.⁵

1. [REDACTED] and Rudy Barillas's Encounter with McDonald⁶

[REDACTED] and [REDACTED] Rudy Barillas, were parking a truck in a lot at 41st Street and Kildare Avenue when [REDACTED] saw a black male, whom she subsequently identified as McDonald, attempting to steal property from certain vehicles parked in the lot. Barillas told McDonald to leave the lot. McDonald responded by making growling noises. After Barillas again told McDonald to leave the lot, McDonald pulled out a knife and swung it at Barillas. Barillas, who

³ Section 6.1, Paragraph I of the CBA states, "If the allegation under investigation indicates a recommendation for separation is probable against the Officer, the Officer will be given the statutory administrative proceeding rights, or if the allegation indicates criminal prosecution is probable against the Officer, the Officer will be given the constitutional rights concerning self-incrimination prior to the commencement of interrogation." CPD General Order GO8-01-01, Paragraph K contains similar language.

⁴ *Fraternal Order of Police, Chicago Lodge 7 v. City of Chicago*, No. 2016 CH 03726 (Cir. Ct. of Cook County, Ill., Mar. 16, 2016).

⁵ On April 22, 2016, OIG obtained maps of the locations that are relevant to the shooting from Google Maps and included those maps in Appendix A. Those maps generally reflect the street layout and location of relevant businesses as they were on the night of October 20, 2014.

⁶ The following account of [REDACTED] and Barillas's encounter with McDonald is taken from the March 16, 2015 case supplementary report (CSR) submitted by CPD Detective David March, which includes the statements that [REDACTED] and Barillas provided to CPD on October 21, 2014, and October 22, 2014, respectively. OIG 15-0564 003077.

had already called 911, then threw his cell phone at McDonald.⁷ McDonald ran from the lot, first northbound on Kildare and then eastbound on 40th Street.

2. Officers Thomas Gaffney and Joseph McElligott's Encounter with McDonald⁸

Officer Thomas Gaffney and his partner Officer Joseph McElligott received a call over the radio that someone had broken into a truck at 4100 South Kildare and were dispatched to the scene.⁹ Gaffney was driving, and McElligott was in the passenger seat of their assigned vehicle, 815R.¹⁰ When they arrived at 4100 South Kildare, they saw a Hispanic male and female standing by the gate to the truck yard. The two said that a black male wearing a black shirt, later determined to be McDonald, had been trying to steal the radio out of a semi-truck, and had subsequently headed north toward 40th Street.

Gaffney and McElligott drove north on Kildare, turned right onto 40th Street, and saw McDonald walking east on the south side of 40th Street. McElligott exited the vehicle and commanded McDonald to stop and turn around. Gaffney stayed in the vehicle in case McDonald attempted to flee. McElligott ordered McDonald to take his hands out of his pockets. McDonald, who had been facing McElligott, turned and walked away with one hand still in his pocket. McDonald then turned again and took both of his hands out of his pockets. He had a knife in his right hand. McElligott drew his weapon and told McDonald to drop the knife. McDonald started walking east again, going from the sidewalk to the street and back. McElligott

⁷ OEMC recordings reflect that Barillas called 911 at 9:45 p.m. stating that he was holding "a guy right hear [sic] that stolen [sic] the radios" from trucks in a truck yard located at "41st and Kildare." OIG 15-0564 003227.

⁸ The following account of Gaffney and McElligott's encounter with McDonald is taken from (1) the audio-recorded statements Gaffney and McElligott provided to IPRA on October 21, 2014, OIG 15-0564 000482-98, 000610-30; and (2) the March 16, 2015 CSR submitted by Detective David March, which includes the statements that Gaffney and McElligott provided to March on the night of the McDonald shooting. OIG 15-0564 003067-69.

⁹ OEMC records reflect that Gaffney and McElligott received the call at 9:47 p.m. OIG 15-0564 003691.

¹⁰ Below is a chart identifying the beat numbers and vehicle numbers of the CPD vehicles that were present when McDonald was shot, along with the names of the officers who were assigned to those vehicles. This SRI refers to the below-referenced vehicles by beat number, unless otherwise specified.

Beat #	Vehicle #	Officers
845R	6412	Officer Joseph Walsh (driver), Officer Van Dyke (passenger)
815R	8489	Officer Gaffney (driver), Officer McElligott (passenger and on foot)
813R	8779	Officer Janet Mondragon (driver), Officer Daphne Sebastian (passenger)
822	8765	Officer Arturo Becerra (driver), Officer Velez (passenger)
841R	8948	Officer Ricardo Viramontes (driver), Officer Dora Fontaine (passenger)

followed McDonald on foot, shining his flashlight on him, while Gaffney followed in 815R, parallel to McDonald.

As McDonald approached the intersection of 40th and Keeler, Gaffney reported to dispatch that McDonald was walking away with a knife in his hand.¹¹ Gaffney and McElligott continued to follow McDonald as he headed east, with McElligott giving McDonald orders to drop his knife and stop. McDonald kept turning around and giving the officers a “weird glaze[d] look.” Gaffney IPRA Tr. 11:20.¹²

As McDonald approached the intersection of 40th and Karlov, Gaffney turned his car toward McDonald to direct him down Karlov. Gaffney wanted to keep McDonald away from Pulaski, which was a more populated area. McDonald then swung his arm and popped 815R’s right front tire with his knife. McElligott was toward the back of 815R when McDonald popped its tire. After McDonald took a step back from the vehicle, Gaffney pulled up further in front of him to stop him from proceeding to Pulaski. McDonald then hit the right side of 815R’s windshield once with the knife in his right hand. The windshield did not break but, according to Gaffney, McDonald hit it as hard as he could. McDonald walked around the front of 815R and continued eastward on 40th Street. After McDonald had walked 10 to 15 feet, another squad car turned off of Pulaski onto 40th Street with its lights on, and McDonald began to sprint. McElligott followed McDonald on foot, and Gaffney followed McDonald in 815R. McDonald ran eastbound through a parking lot of a Burger King located at 40th and Pulaski and then headed southbound on Pulaski. Video footage from several cameras captured McDonald’s movements as he reached Pulaski.

3. Summary of the Relevant Video Footage

The below table contains a summary of the relevant video footage of the McDonald shooting, which includes the dashcam videos from 813R, 823R, and 845R, video from the “WNE fire exit” security camera from the Greater Chicago Food Depository, which is bordered by 40th Street to the north, Karlov Avenue to the east, and Keeler Avenue to the west, and the security camera video from the Dunkin’ Donuts, located at 4113 South Pulaski Road (the DD Camera).¹³

Time	Event(s) Captured	Source of Video
9:53:17 – 9:54:42	McDonald walks eastbound on the south side sidewalk of 40th Street; a CPD SUV travels east on 40th Street, parallel to McDonald with its front bumper even with	Greater Chicago Food Depository Security Camera

¹¹ OEMC recordings reflect that, at 9:53 p.m., 815R reported: “We’re at 40th and Keeler. This guy uh is walking away from us and he’s got a knife in his hand.” Approximately 30 seconds later, a dispatcher stated, “815R looking for a taser.” See OEMC Documents and CDs; *see also* OIG 15-0564 003691, 3228.

¹² OIG 15-0564 000620.

¹³ In addition to the videos cited in the summary, OIG obtained video footage from the security camera videos at Burger King and Focal Point, and the dash camera videos from Vehicles 815R and 821R. These videos do not contain footage relevant to this report.

	McDonald; an officer on foot trails directly behind McDonald by the length of the SUV, with his flashlight trained on McDonald. ¹⁴	
9:56:53 – 9:57:01	813R and 845R turn left onto 40th Street from Pulaski.	813R Dashcam
9:57:01– 9:57:09	An unidentified person on 40th Street points the CPD vehicles toward the Burger King parking lot (813R); 845R turns into the parking lot (813R). McDonald runs southeast through the Burger King parking lot out onto Pulaski (845R).	813R Dashcam; 845R Dashcam
9:57:09 – 9:57:20	845R drives over the curb and sidewalk north of Burger King and heads south on Pulaski (845R); 813R turns around, turns right onto 40th Street, and then right again on Pulaski (813R); McDonald runs southbound in the middle of Pulaski and enters the intersection of 41st Street and Pulaski (813R).	813R Dashcam; 845R Dashcam
9:57:20 – 9:57:25	845R, which is facing east/southeast on Pulaski just north of 41st street, turns right behind McDonald and proceeds south on Pulaski on the east side of the street; 845R's passenger door briefly opens and then closes as it passes McDonald on his left; McDonald continues southbound on Pulaski, toward 822, which is stopped in the middle of Pulaski facing north.	813R Dashcam
9:57:25 – 9:57:28	McDonald slows as he approaches 822, touches his hands to his waist, and then, before Walsh and Van Dyke exit 845R and with 822 situated between McDonald and the officers, McDonald extends his right arm fully to his right—the video shows that he has a silver object in his right hand; 845R passes 822 and comes to a stop on the east side of Pulaski, facing south and almost directly south of 822; Van Dyke opens 845R's passenger door.	813R Dashcam
9:57:28 – 9:57:30	McDonald changes course and begins walking southwest on Pulaski, away from 822 and 845R (813R); Van Dyke	813R Dashcam; DD Camera ¹⁵

¹⁴ OIG confirmed the vehicle is 815R and the officer on foot is McElligott by comparing the video with photographs of the officers. OIG 15-0564 003356.

¹⁵ The DD Camera video does not display an embedded timestamp. Therefore, OIG used the timestamp of 813R's video, which generally captured the same events as the DD Camera from a different angle, to establish the timeframe of the events captured by the DD Camera.

	exits the passenger side of 845R with both of his feet in Pulaski's northbound left turn lane, his gun drawn and pointed at McDonald (813R). Walsh exits the driver side of 845R, just east of Pulaski's northbound left turn lane, with his gun drawn, and moves north along the driver side of 845R until he is several feet north of 845R (DD Camera).	
9:57:30 – 9:57:33	McDonald continues to walk southwest, from the middle of Pulaski to the lane markers that divide the west side of the road (or approximately one lane west of where McDonald was prior to changing course) (813R). While McDonald walks southwest, Walsh begins moving sideways in a west/southwest direction, approximately parallel to McDonald, and crosses over the east side of Pulaski's northbound left-turn lane—his gun is pointed at McDonald (813R; DD Camera). Van Dyke takes approximately two steps northwest toward McDonald, with his left foot crossing into Pulaski's yellow-painted median strip—his gun is pointed at McDonald (813R; DD Camera). 822 drives north on Pulaski, away from 845R (813R).	813R Dashcam; DD Camera
9:57:33 – 9:57:36	As McDonald approaches the lane markers on the west side of Pulaski, walking in a southwest direction, he looks to his right and moves his right hand behind his waist, near the right side of his lower back, then brings his hand back to his right side (813R). As McDonald crosses the lane markers on the west side of Pulaski, he looks to his left, and takes a step southbound (813R). Meanwhile, Walsh continues moving west/southwest with his gun pointed at McDonald, ultimately traversing almost the entire width of Pulaski's northbound left-turn lane (813R; DD Camera). Van Dyke takes an additional step west, toward McDonald, putting both of his feet in Pulaski's median strip and placing himself almost directly between McDonald and Walsh (813R; DD Camera). McDonald is then apparently shot and Walsh stops moving and adopts a stance, with his feet more than a shoulder's width apart (813R; DD Camera).	813R Dashcam; DD Camera
9:57:36 – 9:57:54	McDonald spins between 180 and 270 degrees in a clockwise direction and then falls to the ground with the top of his head pointing south on Pulaski, approximately one street lane east of Van Dyke and just south of Van	813R Dashcam; DD Camera

	Dyke (813R). As McDonald falls to the ground, Van Dyke takes another step west toward McDonald, moving his right foot from Pulaski's median strip into the southbound side of Pulaski; his gun remains pointed at McDonald (813R). Van Dyke subsequently takes an additional step or two south, toward McDonald. Other than those steps, Van Dyke's feet are stationary (DD Camera). After McDonald is on the ground, his legs and feet do not move (813R). McDonald's upper body makes small, intermittent movements as what appear to be puffs of smoke rise from McDonald's body (813R). ¹⁶	
9:57:54 – 9:58:05	An officer approaches McDonald and kicks the knife from his hand. McDonald does not make any noticeable movements.	813R Dashcam
9:58:05-9:58:20	McDonald lies on the ground; no aid is rendered by CPD personnel. 823R, travelling northbound, pulls up on the west side of Pulaski, and stops just south of where McDonald is lying.	813R Dashcam; 823R Dashcam
9:58:20-9:58:57	Several CPD officers walk and stand near McDonald as he lies on the ground; no aid is rendered by CPD personnel.	813R Dashcam; ¹⁷ 823R Dashcam
9:58:57-9:59:02	823R begins making a U-turn on Pulaski. A Cook County Sheriff's Police Department (CCSPD) officer puts on blue gloves and walks toward McDonald. ¹⁸ McDonald is no longer visible in the video frame.	823R Dashcam

4. CCSPD Officer Accounts of the October 20, 2014 McDonald Shooting¹⁹

While on patrol on October 20, 2014, CCSPD Officers Adam Murphy and Jeff Pasqua observed several CPD police vehicles pass by them. Both officers decided to follow the CPD vehicles. When they arrived at the scene, several CPD vehicles were already present—Pasqua estimated it was five or six. McDonald was lying on the pavement “gasping for his last breath of air.”

¹⁶ OEMC records show that dispatch received notice to send an ambulance to the scene at 9:57:51. OIG 15-0564 003691.

¹⁷ The last time stamp visible on the 813R dashcam video is 9:58:55.

¹⁸ OIG identified the CCSPD officer as Officer Adam Murphy.

¹⁹ The following CCSPD Officer accounts are taken from OIG's June 23, 2016 interview of Jeff Pasqua and its June 24, 2015 interview of Adam Murphy. Pasqua and Murphy are currently CCSPD investigators.

Pasqua OIG Tr. 11:22-23. Meanwhile, the CPD officers were “standing around” and talking to each other. Murphy OIG Tr. 11:1. Murphy noted the CPD officers did not respond to him when he asked if they needed assistance. Murphy stated:

I see there’s blood all over the pavement. [McDonald] was kind of gurgling when he was sitting there. I remember his mouth was going open and closed like he was trying to gasp for air. And I looked for everybody else, and they were kind of standing there. I just started taking my gloves—my rubber gloves out to check for a pulse and to see if I could render aid.

Murphy OIG Tr. 12:18-13:2. He heard someone say an ambulance was en route.²⁰ Both Officers Murphy and Pasqua recalled then watching McDonald take his final breaths.²¹ It was “[m]aybe less than a minute before [McDonald] expired.” Murphy OIG Tr. 14:15-16. At no time did any CPD officers attempt to provide aid or comfort McDonald—Murphy stated, “That’s why I felt that I needed to go up to him.” Murphy OIG Tr. 14:11-12.

After McDonald passed away, Murphy got up from beside him and noticed the shooting officer, who he now knows to be Van Dyke, “pacing back and forth in front of his car.” Murphy OIG Tr. 15:7-8. Murphy approached him and told him to sit down and drink water. As he was speaking with Van Dyke, Murphy “heard several officers telling [Van Dyke] to call your union rep, call your union rep.” Murphy OIG Tr. 15:16-17.

Murphy and Pasqua departed after approximately ten minutes on the scene when a CPD sergeant told them CPD did not need their assistance. At the time they left, there was “[a] sea of CPD” on scene. Murphy OIG Tr. 38:3; Pasqua OIG Tr. 25:7-8.

C. Velez’s October 20, 2014 Statement Regarding the McDonald Shooting²²

On March 15, 2015, Detective David March submitted a case supplementary report (CSR) with the R.D. Number HX475653 that contains a summary of CPD’s investigation.²³ Lieutenant

²⁰ In a January 22, 2016 OIG interview, CPD Area North Commander Kevin Duffin stated CPD police officers have a duty to render aid to injured civilians per general orders. Police officers render aid by calling dispatch and requesting that an ambulance be dispatched to the scene. According to Duffin, police officers are not required or expected to provide any more assistance than this. On March 30, 2016, CPD issued General Order G03-06 which requires that the involved member(s) “request medical attention for the injured, and also offer immediate medical aid commensurate with their training, experience, and available equipment.”

²¹ The Medical Examiner’s Case Report states McDonald was pronounced dead “on view” at Mount Sinai Medical Center on October 20, 2014, at 10:42 p.m. OIG 15-0564 015029.

²² OIG 15-0564 003070–71.

²³ CPD’s investigation in the aftermath of the McDonald shooting was reported under record number HX-475653, and most reports were classified as an investigation into an aggravated assault in which McDonald was the offender. In a few reports, the case was classified as an investigation into a justifiable homicide of which McDonald was the victim. An additional record number was also created and classified as a justifiable homicide, apparently for recordkeeping purposes. In CPD’s investigative reports classified under the aggravated assault, CPD personnel drew conclusions about the propriety and lawfulness of Van Dyke’s shooting of McDonald. This raises questions about CPD’s role in investigating a police-involved shooting in light of IPRA’s jurisdiction over the matter.

Anthony Wojcik approved the CSR on March 16, 2015. Included in that CSR is a summary of the statement that March purported to have obtained from Velez at the scene of the shooting, which states in relevant part:

[Velez] stated she was a Chicago Police Officer assigned to the 008th District. Velez related the same facts as her partner, Officer Arturo Bacerra [sic].

Officer Velez added that as they approached the scene she observed Laquan McDonald standing in the middle of the street, holding a shiny object in his right hand. She saw him waving the object in the air. Officer Bacerra [sic] drove past McDonald and began to make a U-turn, when Velez heard multiple gunshots, without pause or delay. She then saw McDonald fall to the ground. Velez did not see who fired the shots. She did see an unknown officer kick the knife from McDonald's hand after he was down on the ground.²⁴

D. Records and Interviews Concerning 822's In-Car Video System

1. October 20, 2014 Supervisor's Management Log

Sergeant Sean Tully completed and signed a "Supervisor's Management Log," dated October 20, 2014, for the third watch officers under his supervision, which included Becerra and Velez. Under "Personnel and Assignments," the log lists Velez and Becerra's names, as well as their beat (822) and vehicle number (8765). Tully noted that the 822 vehicle had an in-car camera and that the camera was "Operable and Logged On" as of 16:30.²⁵

2. Sergeant Becvar's Reports and Interview

On October 21, 2014, CPD Sergeant Lance Becvar submitted a supplementary report for R.D. No. HX475653 concerning his retrieval of video from the in-car video systems of the five CPD vehicles that were on scene when Van Dyke shot McDonald.²⁶ With respect to the beat 822 vehicle (also referred to as Vehicle 8765), the vehicle in which Velez was a passenger on October 20, 2014, Becvar noted "Not engaged—Officer reported power issue." Becvar also completed a corresponding "In Car Camera Video Retrieval Worksheet" regarding his October 20, 2014 video retrieval, in which he made the following notation with respect to 822: "Mics in charging cradles, not sync'd to system."²⁷

²⁴ Detective March completed a General Progress Report (GPR) relating to his interview of Velez that contains March's handwritten notes of the interview. OIG 15-0564 003251. March's handwritten notes of the interview do not differ in any significant way from the summary of Velez's statement in the CSR.

²⁵ With respect to beats 825 and 849, Tully noted that their vehicles' in-car cameras were inoperable and listed a corresponding help desk ticket number for each vehicle's camera.

²⁶ OIG 15-0564 004991.

²⁷ OIG 15-0564 004992.

On July 17, 2015, Becvar sent an email summarizing his findings regarding his October 20, 2014 video retrieval from 822 and the other four CPD vehicles that were on scene when Van Dyke shot McDonald.²⁸ With respect to 822, Becvar wrote: "System not engaged, officer related no power. There was no open H[elp] D[esk] T[icket] called in on vehicle. MICs not sync'd to system even though they were in the charging cradles."

In a January 27, 2016 OIG interview, Sergeant Becvar stated that when he checked 822's in-car video system on October 20, 2014, it was not engaged and there was no video. In addition, 822's mics were not synced to the system. Becvar had a conversation with Velez that evening, and she related that 822's in-car video system had not been working correctly. Velez told Becvar that the system's power had been going on and off. When asked what could cause the system to have no power, Becvar responded: "Is it an interface problem with the car, is it the CPU has a loose board or power supply, a damaged cable, some tampering, I wish I could answer that." Becvar OIG Tr. 65:13-16. According to Becvar, if 822's in-car video system was not powering up at the beginning of Velez and Becerra's shift, "they should have notified their sergeant," and obtained a help desk ticket. Becvar OIG Tr. 70:16-17. When Becvar returned to the Detective Division from the scene of the shooting, he checked to see if 822 had an open help desk ticket and determined that it did not.²⁹

E. OIG Interview of Velez

On September 15, 2016, pursuant to Section 6.1 of the CBA between CPD and FOP, OIG, through CPD's Bureau of Internal Affairs, served Velez with a Notification of Interview, Notification of Allegations, and copies of her prior statements, including (1) her October 20, 2014 statement to Detective March, contained in the March 16, 2015 CSR, and (2) Detective March's GPR containing his handwritten notes of his interview of Velez. In addition, OIG provided Velez with the dashcam footage from 813R and 845R and the security camera footage from Dunkin' Donuts.³⁰

On September 21, 2016, OIG investigators interviewed Velez under oath after informing her of her administrative advisements orally and in writing. Velez provided oral and written acknowledgement of the reading of those advisements. The interview was transcribed by a certified court reporter. Velez was accompanied by her attorney. In summary, Velez stated as follows.

1. October 20, 2014

On October 20, 2014, Velez was in the 822 vehicle with her partner Becerra. Velez and Becerra had been partners for over a year. Their shift began at 3:30 p.m. that day.

²⁸ OIG 15-0564 000567.

²⁹ CPD records reflect that no help desk tickets were opened concerning Vehicle 8765's in-car camera system in the 30 days preceding or following Velez's October 20, 2014 tour of duty.

³⁰ During her September 21, 2016 interview, Velez acknowledged that she reviewed the 813R video in preparation for the interview.

a) Scene of McDonald Shooting

Just before Van Dyke shot McDonald, Becerra was driving northbound on Pulaski, and Velez was in the passenger seat. Velez saw McDonald “holding a shiny object” in his hand; “he was not waving it up over his head or in the air; it was to the side. His hand was extended.” Velez OIG Tr. 81:14-17. After Van Dyke and Walsh went around 822 in 845R, Becerra began making a U-turn on Pulaski between the Burger King and Dunkin’ Donuts. According to Velez, Becerra made the U-turn to “mov[e] out of the way” because McDonald had already passed them. Velez OIG Tr. 87:13. As Becerra made the U-turn, Velez heard shots fired.³¹ When Becerra completed the U-turn, which took seconds, 822 was facing south, and Velez could see McDonald from inside the vehicle. There were no vehicles between 822 and McDonald. Velez could not estimate how far their vehicle was from McDonald or 845R.

Velez then exited 822 and walked to the front of the vehicle. Becerra exited 822 at approximately the same time as Velez, but he was not standing next to Velez. Van Dyke was still firing at McDonald when Velez got out of the vehicle, but she was not sure at the time who was doing the shooting. Velez explained that both Van Dyke and Walsh were in a “ready stance position,” but her focus was on McDonald, who was on the ground. Velez OIG Tr. 23:7. Velez did not know how many shots Van Dyke fired after she got out of the vehicle. While Van Dyke was shooting, Velez was “standing there watching.” Velez OIG Tr. 25:2. She had her holster unsnapped.

Velez said that seeing McDonald get shot while he was on the ground was “horrific to see.” Velez OIG Tr. 73:12. Velez continued: “I kind of froze. I’ve never witnessed that, and I will have 17 years [on the force] in January, and I’ve never seen anything, never witnessed a police shooting out of my years of experience. So, yeah, it was horrific to see.” Velez OIG Tr. 73:12-16.

After the shooting stopped, Velez observed Walsh kick McDonald’s knife away. Velez subsequently attempted to contact FOP “to let them know there was a police-involved shooting.” Velez OIG Tr. 25:13-14. When asked whether contacting FOP was protocol, Velez responded: “People were starting to make notifications. There were officers that were on the radio requesting an ambulance, requesting a supervisor.” Velez OIG Tr. 25:16-19. No one instructed Velez to call FOP. Velez had FOP’s number on her cell phone. Velez initially said that FOP’s line was busy that she “wasn’t able to make any type of notification.” Velez OIG Tr. 25:24-26:1. She later said that she “called FOP. Somebody answered, and they were like, ‘We’re already talking to somebody from the 8th District.’ ‘Okay.’ I hang up.” Velez OIG Tr. 27:14-17.

Velez then waited for a supervisor to arrive. Ultimately a sergeant, whose name Velez did not recall, told Velez and Becerra, “‘You guys are on video. You have to remain on scene. You’re going to have to go to the area.’” Velez OIG Tr. 31:19-22. At some point, Becerra moved the 822 vehicle out of the northbound lane on Pulaski so the ambulance could come through. Velez and Becerra also used their flashlights in an attempt to find shell casings.

³¹ Velez said that prior to the shooting she heard someone say “drop the knife.” Velez OIG Tr. 23:15-16.

While at the scene, Velez and Becerra discussed how neither of them had a taser, and Velez questioned why they responded to the scene if they did not have a taser. Velez denied having any conversations with Van Dyke, Walsh, Fontaine, Viramontes, or Sebastian at the scene. Velez asked Mondragon if her camera had been on, and Mondragon said yes.

Velez saw part of the 813R video while at the scene. Velez explained that Mondragon was in the process of saving the video, which required her to play the video. Velez was standing outside the 813R vehicle “peering in.” Velez OIG Tr. 45:8. Velez saw the shooting on the video. Velez’s reaction upon seeing the video was that “the angle of the vehicle didn’t catch the whole panoramic view of everybody that was there.” Velez OIG Tr. 46:21-23. Velez did not see any other video of the shooting that night.

Velez did not recall talking to a detective at the scene of the shooting and said she did not know who Detective David March was. She denied that anyone from CPD asked her to provide an account of the shooting while she was at the scene.

b) Area Central

Around midnight, Velez and Becerra drove to Area Central in the 822 vehicle. During the drive, Velez asked Becerra whether Walsh had shot McDonald, and he told her that Van Dyke had been the shooter. Velez and Becerra also talked about how “crazy it was to witness th[e] shooting.” Velez OIG Tr. 78:1-2. Velez and Becerra also questioned whether Van Dyke needed to fire all the shots he did; Becerra agreed with Velez that it was a lot of shots to be fired. When Velez and Becerra arrived, Van Dyke, Walsh, Mondragon and Sebastian were present. Fontaine and Viramontes arrived later. According to Velez, “[e]verybody was just milling around pretty much waiting to be spoken to and waiting for IPRA to speak to us.” Velez OIG Tr. 35:5-7. Velez denied talking to any of the other officers who were present.

While at Area Central, someone, who Velez presumed to be from CPD, asked Velez and Becerra if they saw what happened. The person asked: “‘Where were you? What did you guys see?’ You know, ‘Which one is your car?’ Like, we are in one of the vehicles that’s on camera, it’s in the video, and he asked us what we saw.” Velez OIG Tr. 36:3-7. She described the conversation as very brief and said it only lasted a few minutes. Velez did not recall what she or Becerra said in response to his questions. She said the person appeared Asian. This conversation took place in a small office on the second floor of Area Central. No one else was present during that conversation. Velez and Becerra were not asked questions by anyone else while they were at Area Central. At some point, Velez and Becerra were told—Velez did not recall by whom—that IPRA was not going to speak to anyone else and that they could leave.

c) HX475653 CSR

When shown the HX475653 CSR containing what purports to be Velez’s statement, Velez stated: “I don’t know who I spoke to, who took my statement, if there was somebody I spoke to concerning this shooting. So I obviously spoke to somebody, but who was it? I don’t know who took my statement.” Velez OIG Tr. 83:13-17. Velez added, “[T]his is not what I said or what I would have stated in terms of my statement.” Velez OIG Tr. 81:21-23.

More specifically, Velez claimed that she would not have said “She saw him waving [the] object in the air,” *see supra* § IV(C)(1), and said that that statement was not accurate. Velez OIG Tr. 38:2-4. For Velez, the word “waving” implied that McDonald had his knife above his head and that did not happen. When asked to characterize McDonald’s activities, Velez responded: “Holding the object in his right hand with his hand to the side, like extended to the side.” Velez OIG Tr. 66:6-8. Velez added that she had seen McDonald holding his left side and her statement did not reflect such an observation. Velez did not recall relating that observation to any CPD officers on the night of October 20, 2014. Velez further stated that when she initially saw McDonald, he was not standing; rather, “he [was] kind of approaching us too.” Velez OIG Tr. 64:20.

With respect to the statement that “She then saw McDonald fall to the ground,” Velez claimed she would have said that she saw “McDonald fall to the ground while he was still—you know, while the shots were still being, you know, shot.” Velez OIG Tr. 69:6-8. When asked whether she recalled telling anyone from CPD that she had seen McDonald get shot while he was on the ground, Velez stated: “I did not. I didn’t give a statement, didn’t know when I was giving a statement to give this information.” Velez OIG Tr. 72:5-7.

2. Vehicle 822’s In-Car Video System

Velez acknowledged that 822’s in-car video system failed to capture audio or video during her October 20, 2014 tour. When asked whether she followed the start-up procedures for 822’s in-car video system on October 20, 2014, Velez responded: “I don’t remember if I did it right away.” Velez OIG Tr. 100:20. She added: “[Y]ou’re supposed to.” Velez OIG Tr. 100:23. As of October 20, 2014, Velez was aware of the protocols set forth in S03-05 and had attended an all-day training at the Police Academy on how to use the in-car video systems.

Velez and Becerra did not sync their mics to 822’s in-car video system on October 20, 2014. Prior to 2016, it was not Velez’s practice to sync her mic with her vehicle’s in-car camera system. When asked whether she visually inspected 822’s in-car video system for damage on October 20, 2014, Velez responded: “It would be visible. The dash cam is right on—right in front of you. It was—but an actual, like, let me sit here and inspect thorough, no, sir.” Velez OIG Tr. 119:10-13.

Velez tried to log on to 822’s in-car video system throughout her tour on October 20, 2014, but “was not successful.” Velez OIG Tr. 101:4. Velez claimed that the system was “acting up” and that she could not get the startup screen to appear. Velez OIG Tr. 102:3. According to Velez, she and Becerra did not have their microphones on their person that day because they could not log onto the in-car video system.

While at the scene of the shooting, Velez spoke with the CPD “camera person,” who was there to obtain video from the CPD vehicles’ in-car video systems. Velez OIG Tr. 28:20-21. He was upset and asked Velez, “What happened with the camera?” Velez OIG Tr. 29:21-22. Velez told him that she tried numerous times to log on. He responded: “[Y]ou tried so many times,

it's like slapping somebody on the back of the head, that you didn't even give the camera the opportunity to think, to log on.'" Velez OIG Tr. 30:1-4.

Velez was aware that if officers have an issue with their in-car video system, they are supposed to notify their supervisor, who is to obtain a ticket number from the help desk. Velez acknowledged that during her October 20, 2014 tour she did not notify her supervisor that 822's in-car video system was inoperable.³²

V. ANALYSIS

OIG's investigation established that Officer Leticia Velez violated CPD Rule 6 (disobedience of an order, namely S03-05) and Rule 11 (incompetency in the performance of a duty) by failing to visually and audibly record events with 822's in-car video system and failing to notify her supervisor about the system's inoperability. CPD records establish that 822's in-car video system did not capture video or audio during Velez's October 20, 2014 tour. Sergeant Lance Becvar, who attempted to recover video from 822's in-car video system, found that the system was not engaged. Velez claimed that she unsuccessfully attempted to log in to 822's in-car video system throughout her October 20, 2014 tour, but admitted that she never contacted her supervisor to obtain a help desk ticket regarding the inoperable system as required by S03-05.³³ Velez further admitted that she did not visually inspect 822's in-car video system for damage or sync her mic with the system at the beginning of her tour. Thus, the evidence demonstrates that Velez failed to follow the in-car video system procedures set forth in S03-05.

Velez's failure to follow CPD's in-car video system protocols prevented CPD from collecting potentially important, objective, technology-based evidence of the McDonald shooting. As a result, investigators have been forced to rely on Velez's subjective, unrecorded, oral account of the shooting. Velez's violation of CPD rules also served to harm the relationship between CPD and the residents it serves. A functioning in-car video system is critical to CPD's efforts to maintain accountability for its officers. That accountability, in turn, fosters the public's trust in CPD. When accountability mechanisms fail, as they did in the present case, where only one of the five CPD vehicles present at the shooting captured video of the actual shooting and none of those vehicles captured audio, the public can lose faith in CPD's commitment to accountability. Thus, as CPD works to rebuild the relationship between its officers and the greater Chicago community, it must ensure that its personnel understand the importance of keeping all aspects of CPD's accountability framework, including in-car video systems, functional.

³² OIG requested from OEMC the portable data terminal messages sent from the 822 vehicle on October 20, 2014. However, OEMC notified OIG that it only maintained those records for seven days and thus was no longer in possession of the records at the time of OIG's request.

³³ Sergeant Tully's October 20, 2014 Supervisor's Management Log reflects that 822's system was "operable and logged on" one hour after Velez's tour started. However, a lack of evidence regarding the actual mechanical state of 822's dashcam during Velez's October 20, 2014 tour, including the absence of October 20, 2014 PDT messages for 822, preclude any finding as to whether Tully's log was true and accurate.

VI. RECOMMENDATION

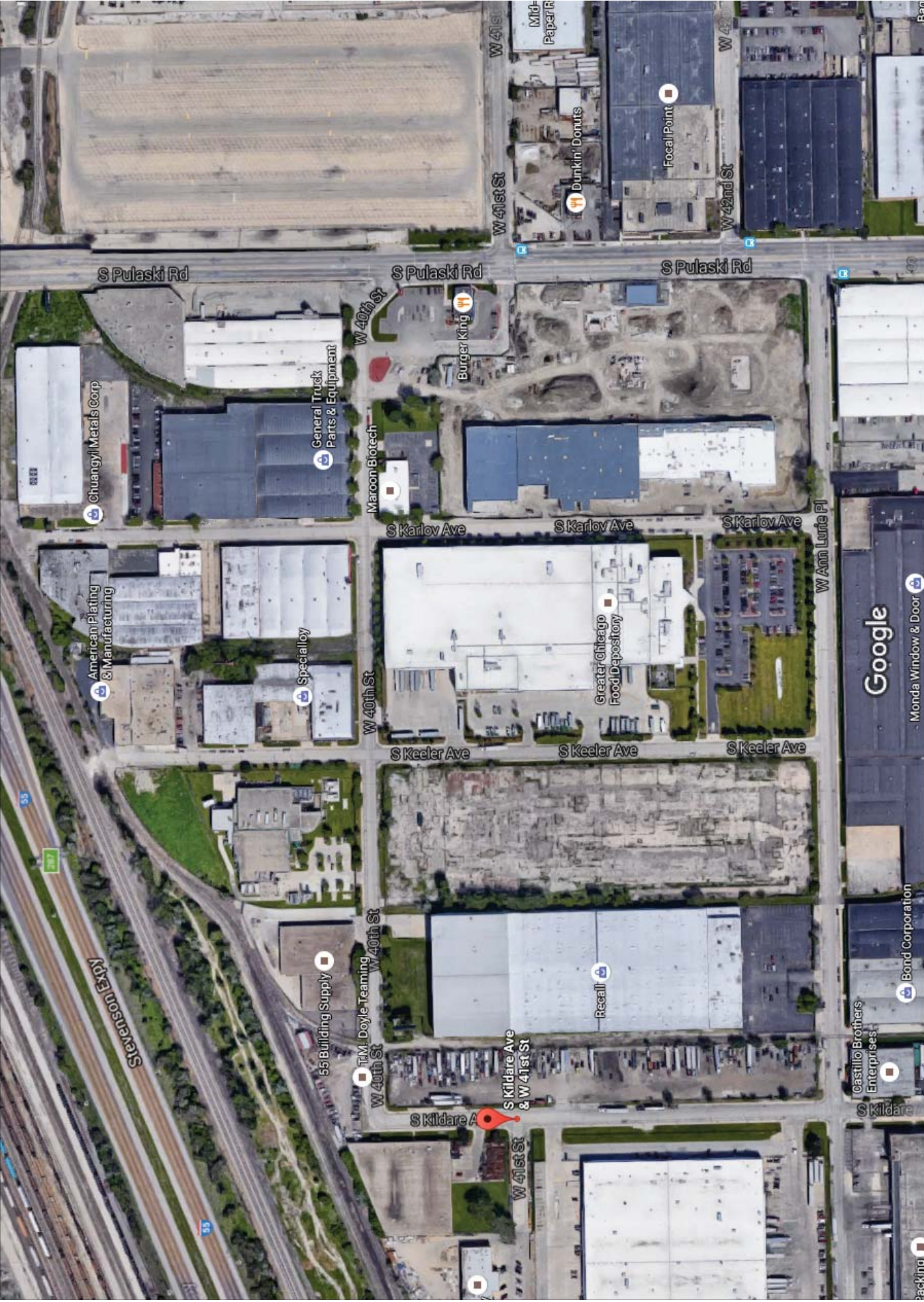
OIG recommends that CPD impose discipline upon Velez commensurate with the seriousness of her misconduct, her discipline history, and department standards.

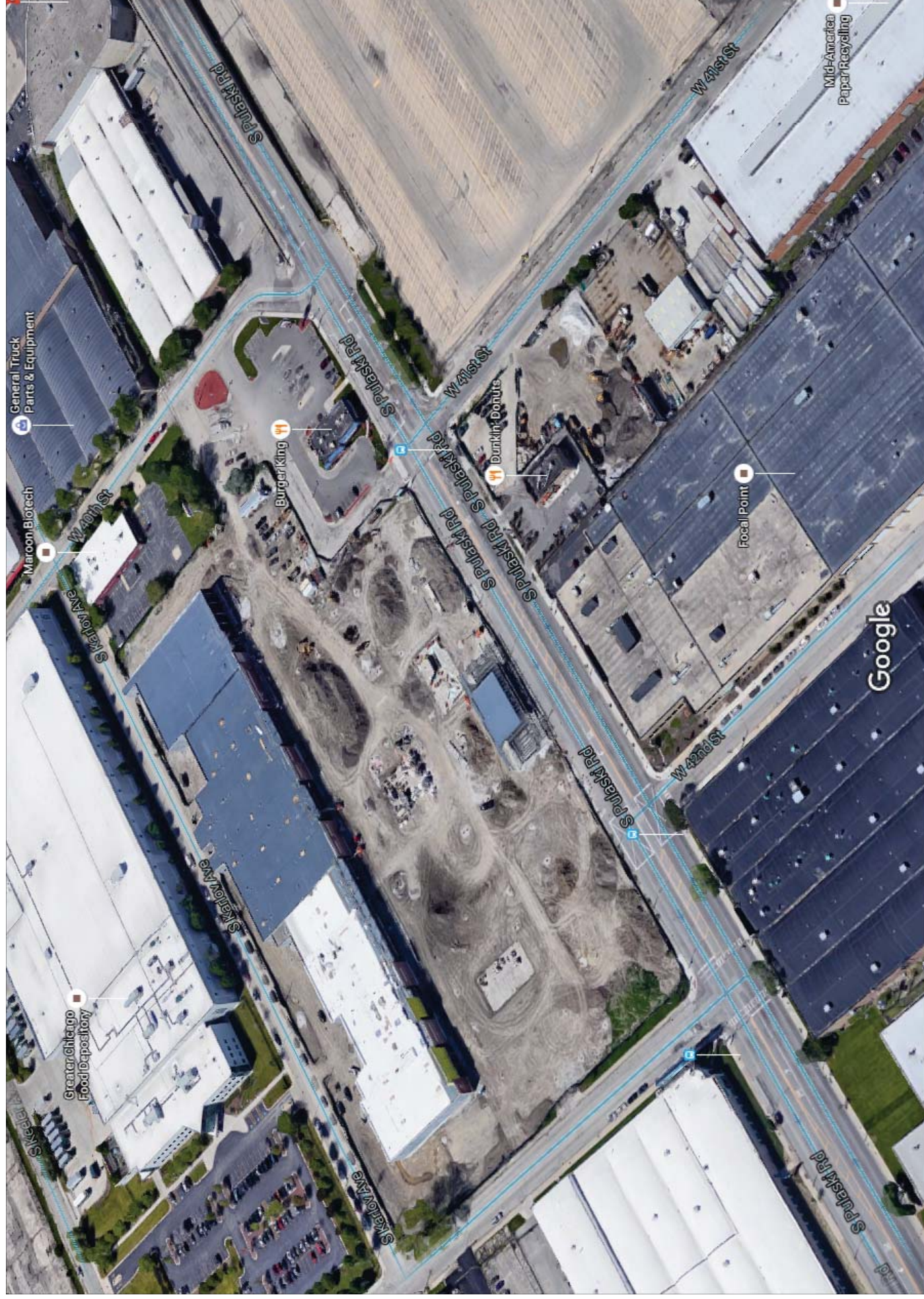
VII. CPD RULE VIOLATIONS

Rule 6 Disobedience of an order or directive, whether written or oral.

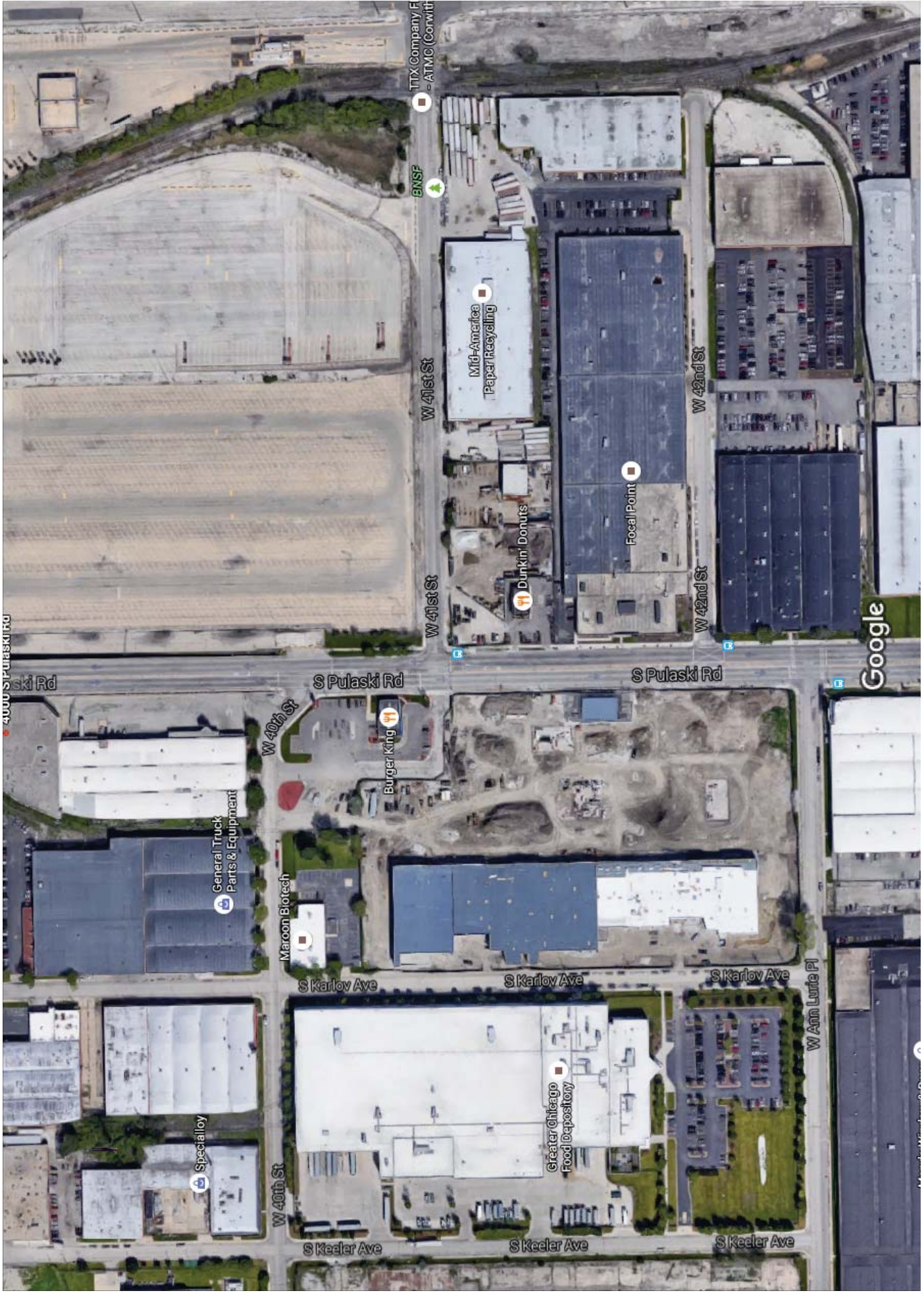
Rule 11 Incompetency or inefficiency in the performance of duty.

Appendix A





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